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Dated, Trivandrum, 23rd December 1960/ 2nd Pausa 1882.

The following Act of the Kerala State Legislature is hereby published for general information. The Bill as passed by the Legislative Assembly received the assent of the President on the 16th day of December, 1960.

By order of the Governor,
P. NARAYANASWAMI,
Law Secretary.

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ACT 34 OF 1960

THE KERALA SHOPS AND COMMERCIAL ESTABLISHMENTS ACT, 1960

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ACT 34 OF 1960

THE KERALA SHOPS AND COMMERCIAL ESTABLISHMENTS ACT, 1960

An Act to consolidate and amend the law relating to the regulation of conditions of work and employment in shops and commercial establishments in the State of Kerala.

Preamble.— WHEREAS it is expedient to consolidate and amend the law relating to the regulation of conditions of work and employment in shops and commercial establishments in the State of Kerala;

BE it enacted in the Eleventh Year of the Republic of India as follows:—

1. *Short title, extent and commencement.*—(1) This Act may be called the Kerala Shops and Commercial Establishments Act, 1960.

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force on such date as the Government may, by notification in the Gazette, appoint.

(4) It shall apply, in the first instance, to the following areas—

(i) the city of Trivandrum,

(ii) all the municipalities constituted under the Madras District Municipalities Act, 1920 (Madras Act V of 1920) in its application to the Malabar district referred to in section 5 (2) of the States Reorganisation Act, 1956, the Travancore District Municipalities Act, 1116 and the Cochin Municipal Act, XVIII of 1113,

(iii) all areas within the jurisdiction of Panchayats which under rule 2 of Schedule III of the Madras Village Panchayats Act, 1950 (Madras Act X of 1950) in its application to the Malabar district referred to in section 5 (2) of the States Reorganisation Act, 1956, should be deemed to be constituted under the said Madras Village Panchayats Act, 1950, and which immediately before the commencement of that Act were classified by the Government as major panchayats and all areas within the jurisdiction of panchayats constituted or reconstituted under that Act which, for the time being, are classified by the Government as class 1 panchayats under section 5 (1) (a) of that Act, and

(iv) all other areas in the State to which the Travancore-Cochin Shops and Establishments Act, 1125 or the Madras Shops and Establishments Act, 1947, has been applied before the commencement of this Act.

(5) The Government may, after giving three months' notice of its intention of so doing, by notification in the Gazette, apply the provisions of this Act or any of them to such other areas as may be specified.

CHAPTER I

PRELIMINARY

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(1) "apprentice" means a person, aged not less than twelve years, whom an employer employs in his service for training by himself or by any other person for any trade or calling;

(2) "child" means a person who has not completed his fourteenth year;

(3) "closed" means not open for the service of any customer or open to any business connected with the establishment;

(4) "commercial establishment" means a commercial or industrial or trading or banking or insurance establishment, an establishment or administrative service in which the persons employed are mainly engaged in office work, hotel, restaurant, boarding or eating house, cafe or any other refreshment house, a theatre or any other place of public amusement or entertainment and includes such other establishment as the Government may, by notification in the Gazette, declare to be a commercial establishment for the purposes of this Act, but does not include a factory to which all or any of the provisions of the Factories Act, 1948 (Central Act 63 of 1948) apply;

(5) "day" means the period of twenty-four hours beginning at mid-night:

Provided that in the case of an employee whose hours of work extend beyond mid-night, day means the period of twenty-four hours beginning when such employment commences;

(6) "employee" means a person wholly or principally employed in, and in connection with, any establishment and includes an apprentice;

(7) "employer" means a person owning, or having ultimate control over the affairs of, an establishment and includes the manager, agent or other person acting in the general management or control of an establishment.;

(8) "establishment" means a shop or a commercial establishment;

(9) "inspector" means an Inspector appointed under this Act;

(10) "leave" means leave provided for in Chapter III of this Act;

(11) "opened" means opened for the service of any customer or to any business connected with the establishment;

(12) "period of work" means the time during which an employee is at the disposal of the employer;

(13) "prescribed" means prescribed by rules made under this Act;

(14) "prescribed authority" means the authority prescribed by rules made under this Act;

(15) "shop" means any premises where any trade or business is carried on or where services are rendered to customers, and includes offices, store-rooms, godowns or warehouses, whether in the same premises or otherwise, used in connection with such trade or business but does not include a commercial establishment or a shop attached to a factory where the persons employed in the shop are allowed the benefits provided for workers under the Factories Act, 1948 (Central Act 63 of 1948);

(16) "spread over" means the period between the commencement and the termination of the work of an employee on any day;

(17) "week" means the period of seven days beginning at mid-night on Saturday night or such other night as may be approved in writing for a particular area by the prescribed authority;

(18) "year" means a year commencing on the first day of January.

3. *Exemptions.*—(1) Nothing contained in this Act shall apply to—

(a) persons employed in any establishment in a position of management;

(b) persons whose work mainly involves travelling, and persons employed as canvassers and caretakers and whose names do not appear in the muster rolls;

(c) establishments under the Central or any State Government, local authorities, the Reserve Bank of India and cantonment authorities;

(d) establishments in mines and oil fields;

(e) establishments in bazaars in places where fairs or festivals are held temporarily for a period not exceeding fifteen days at a time;

(f) establishments, which, not being factories within the meaning of the Factories Act, 1948 (Central Act 63 of 1948) are in respect of matters dealt with in this Act, governed by a separate law for the time being in force in the State of Kerala.

(2) Nothing contained in section 10 shall apply to—

(a) hospitals and other institutions for the treatment or care of the sick, the infirm, the destitute or the mentally unfit;

(b) such chemists' or druggists' shops, as the Government may, by general or special order, specify;

(c) clubs and residential hotels, hostels attached to schools or colleges, and establishments maintained in boarding schools, in connection with the boarding and lodging of pupils and resident masters;

(d) stalls and refreshment rooms at railway stations, docks, wharves or ports.

4 *Power of Government to apply Act to exempted persons or establishments.*— Notwithstanding anything contained in section 3, the Government, may, by notification in the Gazette, apply all or any of the provisions of this Act to any class of persons or establishments mentioned in that section, other than those mentioned in clauses (c) and (f) of sub-section (1) and modify or cancel any such notification.

5. *Exemptions.*—The Government may, if they are satisfied that public interest so requires or that the circumstances of the case are such that it would be just and proper to do so having regard to the nature and capacity of the establishment, by notification in the Gazette, exempt either permanently or for any specified period, any establishment or class of establishments in any area or persons or class of persons to which or to whom this Act applies, from all or any of its provisions subject to such restrictions and conditions as the Government deem fit.

CHAPTER II

HOURS OF WORK

6. *Daily and Weekly Hours.*—No employee in any establishment shall be required or allowed to work for more than eight hours in any day and forty-eight hours in any week:

Provided that the total number of hours of work including overtime, shall not exceed ten hours in any day except on days of stock taking and preparation of accounts and the total number of hours of overtime shall not exceed fifty for any quarter.

7. *Extra wages for overtime work.*—Where an employee works in any establishment for more than eight hours in any day or for more than forty-eight hours in any week he shall in respect of such overtime work be entitled to wages at the rate of twice the ordinary rate of wages.

Explanation.—For the purposes of this section, "ordinary rate of wages" means the basic wages plus such allowances, including the cash equivalent of the advantage accruing through the supply of meals and the concessional sale to employees of foodgrains and other articles, as the employee is for the time being entitled to, but does not include bonus.

8. *Intervals for rest.*—The period of work of an employee in an establishment each day shall be so fixed that no period shall exceed four hours and that no such person shall work for more than four hours before he has had an interval for rest of at least one hour.